

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

**MS. JANELLE (MARY) WILLIAMS,**

**Plaintiff,**

**Case No. 1:24-cv-625**

**v.**

**JUDGE DOUGLAS R. COLE**

**EXCEL DEVELOPMENT CO., INC.,**

**Magistrate Judge Litkovitz**

**Defendant.**

**ORDER**

Before the Court is Magistrate Judge Litkovitz's January 24, 2025, Report and Recommendation (R&R), which recommends that the Court deny Plaintiff Janelle (Mary) Williams' motion for leave to appeal in forma pauperis (IFP). For the reasons discussed below, and especially given the lack of any objections to the R&R, the Court **ADOPTS** the R&R (Doc. 10) and **DENIES** Williams' Application/Motion to Proceed Without Prepayment of Fees (In Forma Pauperis) and Affidavit in Support Thereof (Doc. 8).

In a January 16, 2025, Order (Doc. 6), the Court adopted Magistrate Judge Litkovitz's previous R&R (Doc. 4), and dismissed Williams' Complaint (Doc. 3), without prejudice. Specifically, the Court agreed with the Magistrate Judge that subject-matter jurisdiction was lacking, whether based on federal question or diversity jurisdiction. In that Order, the Court further certified (pursuant to 28 U.S.C. § 1915(a)(3)) that any appeal of the decision would not be taken in good faith and denied Williams leave to appeal IFP. (Doc. 6, #35).

Undeterred, Williams moved for leave to file an appeal IFP anyway. (Doc. 8). Based on the Court's previous Order, the instant R&R recommends denying that motion. (Doc. 10, #46). The R&R further advised the parties that failure to object to its conclusions within fourteen days may result in forfeiture of certain rights, including the right to de novo review by this Court. (*Id.* at #48); see *Thomas v. Arn*, 474 U.S. 140, 152 (1985) ("There is no indication that Congress, in enacting § 636(b)(1)(C), intended to require a district judge to review a magistrate's report to which no objections are filed."); *Berkshire v. Dahl*, 928 F.3d 520, 530 (6th Cir. 2019) ("[F]ail[ure] to file an objection to the magistrate judge's R & R ... [constitutes a] forfeiture." (emphasis omitted)). No party objected to the R&R within that fourteen-day window.

Despite the lack of objection, however, the Court still reviews the R&R for clear error. Fed. R. Civ. P. 72(b) advisory committee notes; *Redmon v. Noel*, No. 1:21-cv-445, 2021 WL 4771259, at \*1 (S.D. Ohio Oct. 13, 2021) (collecting cases).

Having done so, the Court finds no error, much less clear error, in the R&R. The R&R correctly notes that the Court previously denied Williams leave to file an appeal IFP. (Doc. 10, #46 (citing Doc. 6)). Beyond that, the additional allegations in Williams' motion do not cure the jurisdictional deficiencies that led the Court to deny leave to appeal IFP in the first place. To start, Williams now asserts that the amount in controversy is \$65,000. (Notice of Appeal, Doc. 9, #44). But even that amount doesn't exceed the \$75,000 threshold required for diversity jurisdiction. 28 U.S.C. § 1332. And in any event, Williams' motion does not remedy the apparent lack of

complete diversity between her and Excel Development (who, based on her Complaint, are both Ohio citizens, (*see* Doc. 3, #19–20)), which § 1332 also requires. Nor does the motion suggest that Williams is raising any federal claim. *See* 28 U.S.C. § 1331.

Accordingly, the Court **ADOPTS** the R&R (Doc. 10) and **DENIES** Williams' Application/Motion to Proceed Without Prepayment of Fees (In Forma Pauperis) and Affidavit in Support Thereof (Doc. 8). But, as the Court noted in its previous Order and as the Magistrate Judge notes in her R&R, because Williams is a non-prisoner, she may apply to proceed in forma pauperis in the Sixth Circuit Court of Appeals. Fed. R. App. P. 24(a); *Callihan v. Schneider*, 178 F.3d 800, 803 (6th Cir. 1999); *Miller v. Hudson*, No. 1:24-cv-098, 2024 WL 1704532, at \*3 (S.D. Ohio Apr. 19, 2024), *appeal dismissed*, No. 24-3384, 2024 WL 3634240 (6th Cir. June 3, 2024).

**SO ORDERED.**

February 14, 2025  
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**DATE**

  
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**DOUGLAS R. COLE**  
**UNITED STATES DISTRICT JUDGE**